

Despite congressional fury, the House-passed bill that would slap a 90 percent tax on employee bonuses paid this year by companies receiving substantial bailout money faces an uncertain future in the Senate, where a group of senior Republicans has vowed to slow its progress.

“If legislation is going to be proposed, who all should it apply to? Can it be written in a broad enough fashion to not violate the Constitution?” asked Senate Minority Whip [Jon Kyl](#), R-Ariz. “Until we have hearings and understand all of this, we’re not going to know what kind of fix to implement.”

Kyl blocked an attempt by Majority Leader [Harry Reid](#), D-Nev., to bring up the bill via unanimous consent in the Senate on Thursday afternoon. Senate Democrats indicated Thursday that they expected to pass legislation before the spring recess.

Despite vehement criticism by some Republicans, the House passed the legislation, deemed by many to be unconstitutional, on a 328-93 vote.

The House bill (HR 1586) is the first legislative response to the public outrage over the compensation practices of American International Group Inc. It targets a narrow group of individuals, topped by executives and other employees at AIG, on the receiving end of \$165 million in bonus checks.

The final vote surpassed the two-thirds majority needed to pass the bill under suspension of the rules, an expedited procedure that bars amendments and limits debate.

In the end, 85 Republicans voted for the bill while 87 voted no. Numerous GOP members changed their votes from “no” to “yes” as the roll call proceeded.

Six Democrats who represent more conservative districts than their party colleagues generally do voted “no”: [Melissa Bean](#) of Illinois, [Larry Kissell](#) of North Carolina, [Michael E. McMahon](#) of New York,

[Walt Minnick](#)

of Idaho,

[Harry E. Mitchell](#)

of Arizona and

[Vic Snyder](#)

of Arkansas.

Minnick, whose state is a conservative bastion, said after the vote, “Tinkering with the tax code is not the solution. . . . Instead, we need the Treasury Department to use its full weight and authority in administering the rules already in place to better regulate the companies receiving our money.”

Jonathan Lipman, a spokesman for Bean, said that she “came to Congress to work on commonsense legislation that would not have unintended consequences that could cost the taxpayers, who own stakes in all of these TARP-backed institutions, even more in the long run.”

Opposition a ‘Gift’?

But Democratic leaders spent the morning preparing blast e-mails to the home districts of GOP lawmakers who voted against the legislation.

“It would be a gift if [Republicans] voted against it,” a senior Democratic aide said before the vote

The retention bonuses were paid to executives and other AIG employees who are winding down the company’s Financial Products division. Although he has asked recipients to voluntarily return half of their bonuses, AIG’s chief executive, Edward M. Liddy, has warned that a heavy tax could lead to resignations of employees responsible for trying to curtail the company’s riskier ventures.

The company has received more than \$180 billion in federal money under the 2008 bailout law (PL 110-343) and other federal efforts to prevent a collapse that officials believe would threaten the world financial system.

Republican leaders did not try to persuade their caucus to vote against the bill, Minority Leader [John A. Boehner](#) of Ohio said, but he assailed the measure, as did other GOP members who took the floor to attack Democrats' handling of the bonus issue.

"It's nothing more than an effort to cover somebody's rear end because of the political damage that's out there," Boehner said.

But even with Republican ire pointed in the direction of the legislation, GOP leaders, while publicly opposing the bill, quietly supported a different course of action behind the scenes. House Minority Whip [Eric Cantor](#), R-Va., spent much of the morning urging freshmen and vulnerable members of the caucus to vote with the Democrats, according to a Republican aide familiar with the discussions.

Cantor himself voted with the Democrats.

Uncertain Senate Outlook

It remains unclear what will happen in the Senate, where Finance Chairman [Max Baucus](#), D-Mont., and ranking member [Charles E. Grassley](#), R-Iowa, have drafted a version (S 651) somewhat different from the House's that targets AIG and other bailed-out companies as well as the bonus recipients themselves.

Senate Majority Whip [Richard J. Durbin](#), D-Ill., said the Baucus bill — rather than a House-passed measure — is likely to be the base bill that the Senate considers.

But senior Senate Republicans indicated they were cool to the idea of passing such legislation in an expedited fashion, preferring to hold a series of hearings before moving anything to the floor for consideration.

Republican Sen. [Judd Gregg](#) of New Hampshire blasted the House bill, saying “it’s a bill of attainder, it’s blatantly unconstitutional, it sets a precedent just if it even gets to the Senate of pettiness that’s hard to equal.”

“It’s everybody grab their pitchforks,” Gregg added.

Unlike the Senate version, the House bill applies only to those working for companies that took more than \$5 billion in federal aid.

It would not affect bonus recipients with adjusted gross income below \$250,000 for couples and \$125,000 for individuals or married people filing separately.

Executives also could avoid the tax by waiving any right to the bonuses or returning the money by the end of the year.

To avoid constitutional concerns about writing a law that applies retroactively, the new rate would apply only to bonuses received in 2009. There is ample precedent for enactment of tax provisions that apply for an entire year even if they are not enacted until midway through year.

‘You Disgust Us’

House Ways and Means member [Earl Pomeroy](#) , D-N.D., acknowledged that the measure was unlike any tax bill he had ever seen. But he said it was necessary and spoke directly to AIG employees.

“You disgust us,” he said. “By any measure, you are disgraced professional losers. And, by the way, give us our money back.”

Many Republicans opposed the bill, citing the “confiscatory” tax rate and, as did Gregg in the Senate, the Constitution’s ban on bills of attainder targeted at a specific person or small group.

“People have to understand that using the tax code for punishment is a horrible, disastrous precedent,” said [John Campbell](#) , R-Calif.

Republicans promoted an alternative that sought to prevent any additional money from going to AIG and require Treasury Secretary [Timothy F. Geithner](#) to develop a plan to get all of the bonus money back from its employees.

Geithner has already said he will deduct \$165 million from the next \$30 billion that AIG is slated to receive.

Republicans repeatedly assailed a Democratic decision to remove a similar tax proposal from the economic recovery legislation (PL 111-5) and replace it with language that specifically prevented restrictions on bonuses paid pursuant to contracts signed before Feb. 11.

Senate Banking Chairman [Christopher J. Dodd](#) , D-Conn., said Wednesday that he had added the language in question at the request of the administration.

Speaker [Nancy Pelosi](#) , D-Calif., insisted Thursday that the House was blameless for the stimulus bill language that protected the controversial AIG bonuses.

“This is Senate-White House language. . . . We are already on record as passing legislation that limited executive compensation,” she said.

For his part, Dodd, vilified for his bonus role by Republicans on both sides of the Capitol, said he was “supportive of the idea of repealing the very date that was included in [the stimulus language] now that we know that there are bonuses being sought excessively.”

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